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B. REMARKS

History

Applicants filed the present application on December 3, 2001. In response to a first office action dated September 30, 2003, Applicants filed a first response on December 30, 2003. No claims were amended, cancelled, or added in the first response. Claims 1-35 are still pending with claims 1, 8, 15, 19, 25, and 31 as independent claims. The present response is filed in response to a second non-final office action dated March 24, 2004.

Interview Summary

On June 22, 2004, Applicants' representative submitted an "Applicant Initiated Interview Request Form" to Examiner Ubiles via email. Applicants' representative requested discussion of a proposed amendment to claim 1.

On June 22, 2004 at 2:00 PM EST, an interview was conducted via telephone between Amy Pattillo, Applicants' Representative, and Examiners Marie Ubiles and Ahmad Matar. No exhibits were shown, nor demonstrations conducted.

Applicants' representative and the Examiner discussed claim 1, and in particular a proposed amendment to claim 1. Specifically, the prior art cited against claim 1 is the US Published Application to Coussement (2002/0055967).

In particular, the proposed amendment to claim 1 is the presently amended claim 1 in this response. Amended claim 1 includes dependent claim 3 and a limitation that a caller selects from a menu. Dependent claim 3 was previously rejected under 103 over Coussement in view of Ginsburg (US Patent 6,064,730). Applicants argued that neither Coussement nor Ginsburg teach or suggest an on-hold selection menu for selecting a format for publication of on hold characteristics. Examiner Matar agreed that the proposed amendment distinguished the claim from the prior art, but would require an additional search.

In conclusion, no agreement with respect to the claims was reached. Applicants are filing this response with the amended claims for further review by the Examiner.

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Claim Rejections – 35 U.S.C. § 112

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Claims 4-6 and 11-13 stand rejected under 35 USC 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. 35 USC 112, second paragraph reads: The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

The Examiner notes that there is insufficient antecedent basis for the following limitations:

Claims 4 and 11 recite the limitation "said format" in line 2.

Claims 5 and 12 recite the limitation "said format" in line 3.

Claims 6 and 13 recite the limitation "said hold system" in line 4.

Applicants have amended claims 1 and 8 to distinguish "a particular format" from "a plurality of available formats" and have amended claims 4, 5, 11 and 12 to have the limitation of "said particular format" with an antecedent basis of "a particular format" from claims 1 and 8.

Applicants have amended claims 6 and 13 from "said hold system" to "said on hold system" where "said on hold system" finds antecedent basis in "a on hold system" in amended claims 1 and 8.

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Claim Rejections – 35 U.S.C. § 102(e)

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Claims 1-2, 4-5, 7-9, 11-12, 14-16, 18-21, 25-27, and 31-32 stand rejected under 35 U.S.C. §102(e) as being anticipated by Coussement (US 2002/0055967). "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed Cir. 1987). Furthermore the reference must be an enabling disclosure of each and every element as set forth in the claim. *In re Hoecksma*, 158 USPQ 596, 600 (CCPA 1968); *In re LeGrive*, 133 USPQ 365, 372 (CCPA 1962). Because the Examiner does not show that Coussement teaches each an every element of the claims 1-2, 4-5, 7-9, 11-12, 14-16, 18-21, 25-27, and 31-32 or enables each and every element of these claims, these claims are not anticipated, the rejection should be withdrawn, and the claims should be allowed.

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Claims 1, 8, and 15

With respect to claim 1, the Examiner cites Coussement as teaching the method of claim
1. Claim 1 currently reads:

> 1. **(Currently Amended)** A method for publishing call queue characteristics
> comprising:
>> monitoring a plurality of characteristics of an on hold system; and
>> responsive to a selection by a caller currently waiting within said on hold
> system of a particular format from a menu of a plurality of available formats for
> publishing said plurality of characteristics, transferring said plurality of
> characteristics to said caller in said particular selected format.

Applicants respectfully propose that Coussement does not anticipate the invention of
claim 1 because Coussement does not teach expressly or inherently the second amended element
of "responsive to a selection by a caller currently waiting within said on hold system of a
particular format from among a menu of a plurality of available formats for publishing said
plurality of characteristics, transferring said plurality of characteristics to said caller in said
particular format." Further, Coussement does not enable this step.

The Examiner cites Coussement as teaching the original element claim 1 (responsive to a
selection by a caller of a format, transferring said plurality of characteristics to said caller in said
format) where "the user 9 (i.e. caller) accesses the Internet 61 and enters information (i.e.
selection by a caller), such as product description, profile information, or a purpose of contact on
a Web form; the Web form is sent to the communication center by the caller when selection is
finished, and based on entered information the caller receives a client-side media interface 69
(See Fig. 2) with agent availability status. (See Description of the Preferred Embodiment, P.
0058, lines 1-14; P. 0059, lines 1-9; P. 0066, lines 1-6)." [Office Action p. 3]

Amended claim 1 incorporates the element of claim 3. The Examiner rejected claim 3
under 103(a) as being unpatentable over Coussement (US 2002/0055967) in view of Ginsberg
(US 6064,730). In particular, the Examiner cites Ginsberg as teaching "besides ascertaining the
agent's availability, the customer will also see a representative of the estimated wait time for that

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agent's queue, as shown on display field 169. Control module 275 and interactive display server 200 will generate a queue icon, e.g. button 182, in Fig. 4, enabling the customer to enter himself on that agent's queue 171, and, will additionally generate a graphical representation on the customer's display that the customer has entered the queue 171. Alternatively, if the customer does not want to wait, the customer may click button 181 allowing him to leave a message or voice mail either to a specific agent or, to a virtual room containing a number of agents." (See Ginsberg Col. 5, lines 15-27). The Examiner states that "it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Coussement's system by adding the feature of enabling the customer (i.e. caller) to enter himself on an agent's queue, as taught by Ginsberg; and thus in this manner the customer can decide to stay on hold or leave a message for call-back based on his position on an agent's queue." [Office Action, pp. 6-7]

Applicant's respectfully propose that amended claims 1 is no longer anticipated by Coussement or unpatentable over Coussement in view of Ginsberg. In particular, neither Coussement nor Ginsberg teach providing the caller with a menu of selectable format options and then controlling the publishing of on hold characteristics to the user based on the user selection of a format from the menu of selectable format options. Coussement merely teaches allowing a user to submit a status request via a particular interface and receive results back at that interface. Ginsberg merely teaches allowing a user to interact with a display interface and select to wait on hold in a particular queue via the display interface. However, neither Coussement nor the combination of Coussement and Ginsberg teaches publishing on hold characteristics in a format selected by the caller from a menu of formatting options while waiting on hold. Therefore, Applicants respectfully request allowance of amended claim 1 and similarly amended independent system and program claims 8 and 15.

Claims 5, 12, 16, 19-20, 25-26, and 31

With respect to claim 1, the Examiner cites Coussement as teaching the method of claim 5. Claim 5 currently reads:

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     5. (Currently Amended) The method for publishing call queue characteristics
according to claim 1, wherein transferring said plurality of characteristics further
comprises:

     transferring said plurality of characteristics in said <u>particular</u> format to an
interface specified by said caller <u>through a telephony based communication while</u>
<u>said caller is on hold in said on hold system</u>.

     The Examiner states that Coussement teaches the element of claim 5 where "the user
utilizes a PC (i.e. interface) with an instance of software Customer Presence Software 10, which
is adapted to integrate communication-center status information into a customer's electronic
interface upon customer's request. (See P. 0051, lines 1-8)" [Office Action, p. 4] Applicants
respectfully note, however, that Coussement does not teach enabling a caller to specify a
particular interface, but describes only one interface that the user may decide to use to view
some on hold system characteristics. In contrast, claim 5 describes an element where the caller
can specify a particular interface and it need not be the same interface through which the caller
initially contacts the on-hold system. Thus, Applicants respectfully propose that Coussement
does not teach the elements of claim 5.

     For purposes of clarification, however, applicants amend claim 5 to clarify that the caller
specifies the interface through a telephony based communication while on hold. Thus, amended
claim 5 clarifies that the caller specifies a particular interface through a telephony based
communication and the interface selected by the caller need not be the same telephony based
interface through which the user enters the specification. Therefore, since Coussement does not
teach the elements of currently amended claim 5, Applicants respectfully request that the
rejection be withdrawn and the claim allowed.

     The Examiner rejects claims 12, 16, 19-20, 25-26 and 31 under the same rationale as
claim 5. Claims 12 and 16 are system and program products claims that are amended to
correspond to amended claim 5. For the same reasons that allowance of claim 5 is requested,
allowance of claims 12 and 16 is also requested. Claims 19, 25 and 31 are independent claims,

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amended to reflect the amendment to claim 5 and an additional clarification. Claim 19 currently reads:

19. (Currently Amended) A method for interface specific call queue publishing comprising:

monitoring a plurality of characteristics of an on hold system; and

responsive to a selection by a caller through a telephony based communication while on hold within said on hold system of an a particular interface from among a menu of a plurality of available interfaces for publishing said plurality of characteristics, transferring said plurality of characteristics to said particular interface selected by said caller.

In particular, claim 19 is amended to reflect the amendment to claim 5 "through a telephony based communication while on hold within said on hold system." In addition, claim 19 is amended to clarify that the user is selecting a particular interface from among a menu of selectable interfaces. Coussement does not teach providing a menu of selectable interfaces to a user waiting on hold. Nor does Coussement in view of Ginsberg providing this teaching. Therefore, Applicants respectfully request that the rejection to claims 5, 12, 16, 19, 25, and 31 be withdrawn and the claims allowed. Further, Applicants respectfully request that the rejection to claims 20 and 26 be withdrawn and the claims allowed as dependent claims of allowable independent claims 19 and 25.

Claims 2, 4, 7, 9, 11, 14, 18, 21, 27, and 31

Regarding claims 2, 4, 7, 9, 11, 14, 18, 21, 27, and 31, Applicants respectfully propose that because the independent claims on which these dependent claims rely are amended and no longer anticipated by Coussement, Coussement also does not anticipate these dependent claims and the dependent claims should be allowed.

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Claim Rejections – 35 U.S.C. § 103

Claims 3, 6, 10, 13, and 17

Claims 3, 6, 10, 13, and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over US Published Application 2002/0055967 to Coussement in view of US Patent 6,064,730 to Ginsburg. Claims 3 and 10 are cancelled. Claims 6, 10 and 17 are dependent claims of now amended independent claims, and therefore as allowance is authorized for independent claims 1, 8 and 15, allowance of these dependent claims is also requested.

Claims 22-24, 28-30, and 33-35

Claims 22-24, 28-30, and 33-35 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over US Published Application 2002/0055967 to Coussement in view of US Published Application 2002/0055975 to Petrovykh. It should be noted that the Examiner cites '975 to Coussement, however, the inventor name shown on the published application is Petrovykh. The Examiner carries the burden of proving a prima facie case of obviousness. First, claims 22-24, 28-30, and 33-35 are dependent claims of claimed amended for allowance and therefore should also be allowed. Second, however, because the Examiner does not carry the burden of proving a prima facie case of obviousness for claims 22-24, 28-30, and 33-35, the rejection should be withdrawn and the claims allowed.

Regarding claims 22-24, the Examiner cites Coussement as teaching the invention claimed, "except for the step of outputting a call tracking number and network address to said caller, and responsive to detection of said calling tracking number entered through a caller accessible interface accessing said network address, transferring said plurality of characteristics to said caller accessible interface; the step of receiving a caller account identifier as said selected interface, and transferring said plurality of characteristics via a network in an electronic mail to an account server serving said caller account identifier; the step of receiving a caller messaging identifier as said selected interface; and transferring said plurality of characteristics in an instance message to said caller messaging identifier via a network." [Office Action, p. 8]

The Examiner then cites Petrovykh paragraphs 0037, 0095, and 0165-0167 as teaching the missing elements. In general, Petrovykh teaches "a routing system provided for intelligent

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routing of instance messages between clients connected to a data network and customer service

representatives connected to the network." (Petrovykh, abstract lines 1-3). In particular,

paragraph 0032, lines 10-14 describes that "clients connected to the network and operating

instant message software connect to the instant message server for the purpose of establishing

communication with available customer service representatives. Paragraph 0037 describes

routing instant messaging requests to a particular IP address of a customer service representative

within the network. Paragraph 0092 teaches that agents operating from communication centers

can monitor a client availability status for the purpose of callback optimization and paragraph

0095, cited by the Examiner, teaches that the client-status information can be obtained using a

single protocol or multiple protocols and a single network or multiple networks. Paragraph

0165, cited by the Examiner, teaches a web browser interface through which the client can select

from multiple options, such as viewing the status of individual agents, allowing a user to monitor

calls holding for the agent, and allowing a user to submit a call-back request. Paragraph 0166,

cited by the Examiner teaches that every client subscribing to the call center system is provided

with an identification parameter (member ID number) so that data obtained and stored from

internal and external sources is easily identifiable to a particular client by the member ID

number. In addition, paragraph 0166 teaches that "passwords and log-in requirements may be

instituted depending on enterprise rules." Paragraph 0167 teaches that the personal data

category can be divided into subcategories such as login name, password, address, age, marital

status, etc.

The Examiner then concludes that "it would have been obvious to one of ordinary skill in

the art at the time the invention was made to modify Petrovykh by adding the use of a member

ID number (i.e. call tracking number), a login name (i.e. call account identifier), and the use of

version identification of instant message software used by the client (i.e. caller messaging

identifier) in order to transfer client-status information (i.e. plurality of characteristics) to an

interface (or PC) used by the client (or caller) as taught by Petrovykh, and thus in this manner

allow better routing of calls, faster delivery of calls and associated information and improved

service with regard to client satisfaction." [Office Action, pp. 10-11] Further, the Examiner

"takes notice that while not directly expressed in Petrovykh, it is inherent that in order to route

the caller requested information to PC (i.e. caller accessible interface) a network address (in this

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case an IP) is needed; and that when using MSN Messenger Service.TM, the caller can receive

the requested information (i.e. plurality of characteristics) on an e-mail account under which the

MSN Messenger Service.TM was registered." [Office Action, p. 11]

In establishing a prima facie case of obviousness under 103(a), the combined prior art

references must teach or suggest all the claim limitations. *In re Vaeck*, 947 F.3d 488, 20

USPQ2d 1438 (Fed Cir. 1991). Applicants respectfully propose that Coussement in view of

Petrovykh does not teach the method of claim 22 as described by the Examiner and therefore

prima facie obviousness is not shown. Claims 22 reads as follows:

> 22. (**Currently Amended**) The method for interface specific call queue
> publishing according to claim 19, further comprising:
>
> outputting a call tracking number and network address to said caller <u>via a
> telephony based communication while said caller is waiting on hold</u>; and
>
> responsive to detecting said call tracking number entered through a caller
> accessible interface accessing said network address, transferring said plurality of
> characteristics to said caller accessible interface.

First, the Examiner equates the plurality of characteristics of the on hold system to the

client-status. The client-status, as taught by Petrovykh paragraph 0092, is an indicator of the

availability of the client to receive communications, not an indicator the availability of the on

hold system to receive communications. The plurality of characteristics of the on hold system, in

contrast indicate the availability of representatives operating within the on hold system.

Second, the Examiner does not point out, nor does Petrovykh teach, the first element of

outputting a network address to the caller, where the caller can then access the network address

through a caller accessible interface and enter the call tracking number. The Examiner cites that

it is inherent that in order to route the caller information to a caller accessible interface, a

network address is needed. However, the claimed element is not "in order to route the caller

information to a caller accessible interface, a network address is needed." The claim is that a

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call tracking number and network address are output to the caller and the caller then accesses the

information at the network address through a caller accessible interface.

Therefore, because Petrovykh does not teach transferring on hold characteristics or

outputting a call tracking number and network address, the combined prior art references do not

teach or suggest all the claimed invention, Applicants respectfully request allowance of claim 22.

In addition, Applicants respectfully request allowance of corresponding system and program

claims 28 and 33.

Further, claims 23 and 24 both describe transferring the on hold characteristics, which as

discussed with reference to claim 22 is not an element taught by the combined references.

Therefore, applications respectfully request allowance of claims 23 and 24 and corresponding

system and program claims 29-30 and 34-35.

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Conclusion

In view of the foregoing, Applicants respectfully request the allowance of all pending claims. In addition to Applicants' request for a preliminary telephone interview, if the Examiner feels that the pending claims could be allowed with minor changes, the Examiner is invited to telephone the undersigned to discuss an Examiner's Amendment.

The Commissioner is hereby authorized to charge or credit Deposit Account No. 09-0447 for any fees required or overpaid.

Respectfully submitted,

6/23/2004

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